

Protection of Children against Sexual Abuse in the Circle of Trust: Legal Frameworks (Lanzarote Convention Monitoring Questionnaire)

Fields marked with * are mandatory.

Introduction

1. The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all forms of child sexual abuse. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (Article 1 § 2), decided that:

“1. The monitoring of the implementation of the Convention in the Parties shall be based on a procedure divided by rounds, each round concerning a theme decided by the Lanzarote Committee or any other approach deemed appropriate by the Lanzarote Committee within the scope of the Convention.

2. The Lanzarote Committee will determine the length of each monitoring round in the light of the themes selected and the provisions of the Convention to be monitored.

3. The monitoring round will be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme. The Parties shall respond to the questionnaire within the time-limit set by the Lanzarote Committee.”[1]

The notion of the circle of trust

3. In January 2018, the Lanzarote Committee concluded its first monitoring round “Protection of children against sexual abuse in the circle of trust”. The notion of “circle of trust” includes members of the extended family, persons having care-taking functions or exercising control over the child, and any other persons with whom the child has relations, including his/her peers.[2]

The previous and current monitoring rounds on the circle of trust

4. The two implementation reports adopted as a result of the first monitoring round evaluated the frameworks and strategies put in place by the 26 States Parties to the Lanzarote Convention which had ratified it by the time the monitoring round was launched[3]. Since then, the Convention has been ratified by 22 other Parties,[4] and numerous changes have taken place in the subject area due to the development of international standards and national reforms. Furthermore, a child’s circle of trust remains the environment

where the vast majority of sexual abuse occurs.[5] The Committee therefore decided to come back to the subject matter of the first monitoring round in 2023, to both take stock of the situation in the 22 Parties that had not been examined in the first round and to evaluate the follow-up given to the Committee's recommendations by the 26 Parties that had.

5. All of the current 48 Parties will be monitored at the same time to create a momentum around specific aspects of the monitoring theme. To ensure a more accurate reflection of the situation in the Parties and a speedier publication of intermediary results, the monitoring round will be divided into several parts and conducted on the basis of information submitted by the Parties and other stakeholders in response to questionnaires specific for each part.

Involvement of civil society and other relevant stakeholders in the monitoring round

6. In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee's Rules of Procedure, the Secretariat shall seek the views of the representatives of civil society and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation of the Convention by Parties, in particular by asking them to comment on the replies to this questionnaire or by any other means (e.g. by offering the observers and participants in the Lanzarote Committee to submit any relevant information they may have with regard to any Party to the Convention by replying directly to some or all of the questions of this questionnaire). These comments and replies will be transmitted by the Secretariat to the Party(ies) concerned and made public.

Type of questions and elements to be borne in mind when replying

7. Each of the questionnaires of this monitoring round will contain questions derived from the Committee's first monitoring round recommendations and findings, as well as a few new questions based on the Committee's adopted texts and international standards that have emerged in the meantime, including the case-law of the European Court of Human Rights, to gather information for capacity-building purposes. The first part of the monitoring round will assess the legal framework and related procedures with respect to sexual abuse of children in the circle of trust ("Legal frameworks").

8. This specific first questionnaire was adopted by the Lanzarote Committee on 2 June 2023. It is recalled that, in accordance with Rule 26 of the Lanzarote Committee's Rules of Procedure:

"...2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as "contact person".

3. Parties shall submit their replies in one of the official languages of the Council of Europe to the secretariat within the time limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public.

5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation."

9. In addition, Parties are kindly requested to:

- answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarised way;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;

- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements.

10. The term “national legal framework” used in the questionnaire includes not only laws but also all forms of regulations (decrees, resolutions, administrative directions, instructions, and any other decisions creating legal consequences for more than one individual) and higher courts’ directive rulings.

11. The questions asked concern the legal frameworks pertaining to both online and offline forms of activity. Should your national legal framework distinguish between them, please provide details.

12. As indicated above, some of the questions are included for capacity-building purposes. Therefore, nothing in the wording of these questions should be taken as an indication of a preferred state of affairs or course of action.

13. The questionnaire uses a colour-coded system to help you differentiate questions based on the Lanzarote Committee’s 1st monitoring report’s “invite” recommendations (in blue) and “urge”/ “consider” recommendations (in red). The questions based on the European Court of Human Rights’ case law and the Committee’s adopted texts are coloured red. The questions included for capacity-building purposes are coloured blue.

14. Some of the questions are addressed only to specific Parties found to be not in compliance with a particular requirement of the Convention in the first monitoring round, or to those Parties and to the 22 Parties which had not been evaluated during the first monitoring round. All other questions are meant to be replied to by all Parties.

[1] Rule 24 of the Lanzarote Committee’s [Rules of Procedure](#)

[2] See [1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”](#), p. 12. Examples of the different categories of persons may be found in paragraphs 123-125 of the [Explanatory Report to the Lanzarote Convention](#)

[3] Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Serbia, Spain, Türkiye and Ukraine

[4] Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Monaco, Norway, Poland, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Tunisia, United Kingdom

[5] See the [Explanatory Report to the Lanzarote Convention](#), paras. 48 and 123-125

IDENTIFICATION OF THE RESPONDER

* Name of the Party responding or concerned by your response

Republic of Bulgaria

* Name of the contact person/coordinator

* Email address of the contact person/coordinator

KEY NOTIONS Question 1. Does your national legal framework:

a. [have a reference to “abuse of a recognised position of trust, authority or influence” as a separate sexual offence against children?](#)^[6] If yes, please provide a copy of the relevant provision(s).

[6] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework” adopted by the Lanzarote Committee on 4 December 15, Recommendation 3.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.a Yes)

In Bulgarian criminal law, acts committed through abuse of a recognized position of trust, power or influence are crimes criminalized as qualified offences.
Please see below a detailed extract from the Penal Code in underlining the relevant provisions):

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b. [\[for 22 Parties + Belgium and Luxembourg\] establish a separate offence of sexual abuse of children by someone in a recognised position of trust, authority or influence instead of considering the fact that the perpetrator holds that position just as an “aggravating circumstance”?](#)^[7] If yes, please indicate the specific legal provision.

[7] *Ibid.*, Recommendation 2

- Yes
 No

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c. [list specific categories of adults in contact with children automatically qualifying as holding this position?](#)^[8]

[8] *Ibid*, Recommendation 4. Examples: members of the extended family (including new partners), persons having caretaking functions (including trainers of any kind) or exercising control over the child professionally or on a voluntary basis (including persons who look after children in their leisure-time) and any other person trusted by the child (including other children).

- Yes
 No

If appropriate, please provide more information (1.c No)

Bulgarian national law does not contain a legal definition of the term "persons occupying a recognised position of trust, power or influence". There is no specific enumeration and the range of such persons is deduced from the case-law by means of analogous legal signs - "by using a position of dependence and supervision". Such examples include parents, adoptive parents, teachers, similar dependence is created in the relations between teachers and pupils, between educators and children placed in care homes, boarding schools, etc. Dependence or supervision between the perpetrator and the victim can also be established in cases of subordination and subordination between them (professional, service, social, etc.).

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d. [define the notion of "circle of trust"](#)?^[9]

[9] *Ibid*

- Yes
 No

If appropriate, please provide more information (1.d No)

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VICTIMS' AGE Question 2. Does your national legal framework:

a. **[for 22 Parties + Italy, Portugal, San Marino, and Türkiye] provide that every child up to 18 years of age is protected against the criminal offence of sexual abuse by someone in a recognised position of trust, authority or influence?**^[10]Please refer to the specific legal provisions.

[10] *Ibid.*, Recommendation 6

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.a Yes)

Although the provisions of Chapter II, Section VIII “Debauchery” of the Special Part of the Penal Code regulate in separate texts the different types of sexual assaults against persons under the age of 18, these provisions, considered in their totality, cover most life situations of sexual assaults against persons under the age of majority when the perpetrator is a person within the victim's circle of trust, authority or influence, whether the victim is under or over the age of 14.

Specifically, Article 149, paragraph 2, item 4 of the Penal Code criminalizes in a qualified composition the fornication with a person under the age of 14 committed by using a situation of dependence or supervision. Art. 150, par. 1 provides for criminal liability for such an act with a person over 14 years of age. Art. 151, par. 1 of the same Article makes it a criminal offence to cohabit without the use of coercion or violence with a person under 14 years of age, whether or not a situation of dependence or supervision is used, and paragraph 2 of the same Article makes it a criminal offence to cohabit with a person between 14 and 18 years of age while using a situation of dependence or supervision. Art. 152(2)(1) and (2) criminalizes rape of a person under the age of 18 (i.e., between 14 and 18) or when that person is a descendant, and paragraph 4(1) of the same article provides for a more severe penalty when the person is under the age of 14. Art. 157(3) provides for punishment for sexual intercourse or performing acts of sexual gratification with a person of the same sex under the age of 14, and paragraphs 1 and 2 of the same article - for the same act when it is committed using a situation of dependence or supervision, in one case the victim is over and in the other - under the age of 14.

Please see the extract of the quoted provisions of Chapter II, Section VIII “Debauchery” of the Special Part of the Penal Code.

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b. [for 22 Parties + North Macedonia and Ukraine] indicate that the child's legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?^[1] Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
- No

Here you can upload any file(s) in support of your answer

SCOPE OF OFFENCE Question 3. Does your national legal framework criminalise sexual abuse of children:

a. where the offender abuses a recognised position of influence? ^[12] Please refer to the specific legal provisions.

[12] *Ibid.*, Recommendation 1

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.a Yes)

The national legal framework criminalizes the sexual exploitation of persons under the age of 14 through the use of a position of dependence or supervision.
Please see the answer to Question 1 and the extract from the Penal Code.

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b. **[for 22 Parties + Belgium]** where the victim is below 18 and emancipated through marriage, and the perpetrator is the victim's spouse or marital partner?^[13] Please refer to the specific legal provisions.

[13] *Ibid.*, Recommendation 7

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.b Yes)

The fact that the perpetrator is the spouse or marital partner of the victim is irrelevant to the constitutionality of the offences under Chapter II, Section VIII "Debauchery" of the Special Part of the Penal Code. In this regard, sexual abuse of children is not criminalised as a separate offence where the victim is under 18 years of age and has been emancipated by marriage and the perpetrator is the spouse or marriage partner of the victim. The same serves as an aggravating circumstance in the above offences.

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c. **[for 22 Parties + the Republic of Moldova]** where no coercion, force or threat is used by the perpetrator holding the position of trust, authority or influence?^[14] Please refer to the specific legal provisions.

[14] *Ibid.*, Recommendation 8

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.c Yes)

Please see the answer to Question 1 and the extract from the Penal Code.
Art. 149. (Amend. - SG 28/82, in force from 01.07.1982; amend. - SG 89/86) (1) (Amend. - SG 107/96; amend. - SG 75/06, in force from 13.10.2006) Whoever commits an act in order to arouse or satisfy a sexual desire without a copulation regarding a person who has not accomplished 14 years of age shall be punished for fornication by imprisonment from one to six years.
If the act is committed in relation to a person in a position of dependence or supervision, it will be criminal in

all cases, regardless of whether force or threats are used (and at the same time he lacks his consent when he has reached the age of 14 age).

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SCOPE OF OFFENCE Question 4. Does your national legal framework:

a. **criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions?**^[15]

Please specify which other acts are covered and whether violation of a child's "sexual integrity" specifically is criminalised.

[15] *Ibid.*, Recommendation 9

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.a Yes)

The national legal framework generally criminalizes two forms of sexual contact with children and these are "fornication" and "copulation".
Fornication' should be understood as the commission of an act with the intent to arouse or gratify sexual desire without coitus.
"Concubinage" is the performance of sexual intercourse consisting of vaginal penetration by a male sexual organ.
Please see the extract from the Penal Code - from Article 154a of the Penal Code up to and including Article 159 of the Penal Code.

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b. **[for 22 Parties + Bulgaria] ensure equal sanctions for sexual abuse committed within a heterosexual and homosexual sexual activity?**^[16] Please refer to the specific legal provisions.

[16] *Ibid.*, Recommendation 11

- Yes
 No

If appropriate, please provide more information (4.b No)

The Penal Code provides similar but not the same penalties for an act committed in hetero- and homosexual activity.

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c. [for 22 Parties + Albania and the Republic of Moldova] make any distinct reference to “homosexual activities” in the description of criminal offences involving sexual abuse and sexual exploitation of children?^[17] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.c Yes)

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EX OFFICIO PROSECUTION Question 5. Does your national legal framework:

a. contain a requirement to investigate and prosecute sexual abuse and exploitation of children by someone in a recognised position of trust, authority or influence without a complaint from the victim or his /her legal representative? ^[18] Please refer to the specific legal provisions.

[18] *Ibid.*, Recommendation 57

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.a Yes)

Sexual offences are regulated in Articles 149 - 159 of Section VIII "Debauchery", Chapter Two "Offences against the person" of the Special Part of the Penal Code. They are offences of a general nature and are not included in the list of offences under Article 161 of the Penal Code for which prosecution is instituted only on the complaint of the victim or prosecution of a general nature is instituted on the complaint of the victim to the public prosecutor's office and cannot be discontinued at his request. These offences shall be investigated ex officio and may not be terminated by the withdrawal of the victim's complaint.

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b. contain a requirement to continue the proceedings even if the victim has withdrawn his/her complaint /statements?[19] Please refer to the specific legal provision(s).

[19] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.b Yes)

A possible withdrawal of the complaint does not lead to the termination of the criminal proceedings for the cited offences.

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c. [for Portugal] in case of a sexual act committed by an adult in respect of a child aged 14-16 years old which does not result in the child's death or suicide, require the child victim to lodge a complaint as a prerequisite for investigation and prosecution?[20]

[20] *Ibid.*, Recommendation 56

- Yes
 No

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MEASURES IN RESPECT OF CHILDREN WHO SEXUALLY OFFEND AND CHILDREN DISPLAYING RISKY AND HARMFUL SEXUAL BEHAVIOUR Question 6. Does your national legal framework:

a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?[21]Please provide details.

[21] Inspired by *X and Others v. Bulgaria* (no. 22457/16), 2 February 2021 and *A.P. v. the Republic of Moldova* (no. 41086/12), 26 October 2021

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.a Yes)

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b. [differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children?](#)^[22] Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.

[22] Question included for capacity-building purposes

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.b Yes)

A principled distinction is made between adult (over 18 years of age) and juvenile offenders (over 14 but under 18 years of age). Under Art. 31(2) of the Penal Code, a minor - aged 14 or over but under 18 - is criminally responsible if he or she is capable of understanding the nature and meaning of the act and of directing his or her actions. With regard to the criminal liability of minors, the special rules provided for in the Penal Code (Article 31, paragraph 4 of the Penal Code) shall apply. Minors may commit a criminal offence only when they are capable of understanding the nature and meaning of the act and of directing their actions (Article 31(2) of the Penal Code). Minors who have committed an offence are subject to special rules relating to their criminal liability set out in Chapter Six of the General Part of the Penal Code, entitled "Special rules for minors". These special rules constitute exceptions to the general criminal law regime applicable to adults, taking into account the age of the children who have committed an offence.

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CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

a. [provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?](#)^[23] Please provide details.

[23] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 26

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.a Yes)

According to the Child Protection Act (Article 15), in any administrative or judicial proceeding in which the rights or interests of a child are affected, the child must be heard if he or she has reached the age of 10, unless this would be detrimental to his or her interests. Where the child has not attained the age of 10 years, he or she may be heard depending on his or her stage of development. Reasons shall be given for the decision to grant a hearing.

Prior to the hearing, the court or administrative authority shall provide the child with the necessary information to help him or her form an opinion and shall inform him or her of the possible consequences of his or her wishes, of the opinion he or she holds and of any decision of the judicial or administrative authority. The judicial and administrative authorities shall provide an age-appropriate hearing environment for the child. A social worker from the Social Assistance Directorate at the child's current address and, if necessary, another appropriate specialist must be present at the hearing and counselling of the child. The court or the administrative authority shall also order the hearing to take place in the presence of a parent, guardian, custodian, other person caring for the child or other relative known to the child, except where this is not in the best interests of the child.

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b. **provide for the possibility for child protection professionals to conduct exploratory interviews of a child without acquiring the parents/legal guardians' prior consent in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?**^[24] Please provide details.

[24] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.b Yes)

It is provided for when it is in the best interests of the child.

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c. **allow for the removal of the suspected perpetrator from the family environment in case of reasonable suspicion of sexual abuse of a child living in the same environment together with the suspect?**^[25] Please provide details.

[25] This question results from the Committee's reasoning that "before resorting to the removal of the victim, the removal of the perpetrator should be preferred" (page 28 of the 1st implementation report).

- Yes

No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.c Yes)

The rights of persons who are victims of domestic violence or at risk of domestic violence; the measures for protection from domestic violence and the proceedings for their enforcement are governed by the Law on Protection from Domestic Violence (LPDV). According to Article 2 of the LPDV, 'domestic violence' means any act of physical, sexual, psychological or economic violence, as well as any attempt of such violence, coercive restriction of privacy, personal liberty and personal rights committed against persons who are related, who are or have been in a family relationship or in a de facto conjugal or intimate relationship. Any domestic violence perpetrated in the presence of a child shall also be deemed to be psychological abuse of a child.

Removing the perpetrator from the jointly occupied dwelling for the period set by the court is one of the measures for the protection of children who are victims of domestic violence, including sexual violence. Other measures applicable to children may include requiring the perpetrator to refrain from committing domestic violence; prohibiting the perpetrator from contacting the victim in any form, including by telephone, electronic or ordinary mail and fax, as well as by any other means and systems of communication under conditions and for a period to be determined by the court; the temporary placement of the child with the abused parent or with the parent who did not perpetrate the violence, under conditions and for a period determined by the court, if this does not conflict with the interests of the child; and the referral of abused children to specialised services for the protection, assistance and support of child victims or witnesses of violence.

As a protective measure, the court may order that the regime of personal relations, established under the Family Code, between the child and the parent perpetrator of domestic violence must be carried out in a protected environment provided in a specialized service under this Act or provided by a social service provider at the child's current address or place of residence, under the supervision of a psychologist or social worker.

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d. **consider the removal of the child victim from the family environment as a last resort procedure? Is that procedure clearly defined, and does it set out conditions for and duration of the removal?**^[26] Please provide details.

[26] *Ibid.*, Recommendation 27

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.d Yes)

According to Article 16 of the Protection Order Act, the court imposes one or more protection measures. One of the measures may be the one under Art. 1(5) of the Protection Act - temporary placement of the child with the abused parent or with the non-abusive parent under conditions and for a period of time determined by the court, if this does not conflict with the interests of the child.

The removal of the child from the family is a protection measure regulated in the Child Protection Act and its implementing rules. Article 25 of the Child Protection Act provides for the grounds for placement outside the family, one of which is that the child is a victim of violence within the family and that there is a serious risk of harm to his or her physical, mental, moral, intellectual and social development. The procedure for placement outside the family is described in Articles 26-28 of the Child Protection Act and in the Regulations for the implementation of the Act, where separate procedures are distinguished for the placement of the child in a family of relatives or close family members (Articles 23 and 24 of the Child Protection Act) and for the placement of the child in a social or integrated health and social service for residential care (Article 28). According to Art. 23 par. 23(1) of the PPDET, the placement of the child outside the family shall be imposed as a protection measure after all possibilities for protection within the family have been exhausted, except in cases where the child's removal is urgently required.

Article 33 of the Child Protection Act defines the procedure for emergency placement outside the family, which is undertaken in cases where there is a danger to the health and life of the child. Leading here are the shortened time limits within which the competent authorities take the necessary action. The Regulations provide that the placement is to be carried out immediately after receipt of the alert by order of the Director of the Social Assistance Directorate. In this case, a social worker immediately starts an investigation of the situation, which is carried out within 10 days of the order being issued. If it is necessary to change the protection measure or to terminate the placement, the Director of the Social Assistance Directorate shall issue a new order. It is provided that the Social Assistance Directorate shall make an application to the court for the imposition of the measures referred to in the above-mentioned orders of the Director upon completion of the examination within one month of their issue.

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- e. [ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?](#)^[27] Please provide details.

[27] *Ibid.*, Recommendation 25

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.e Yes)

Yes, they have this right, subject to the requirements of the Data Protection Act and the obligations as a data controller.

The relevant provisions are in the Child Protection Act. According to Article 7, paragraph 5 of the Child Protection Act, the central and territorial bodies of the executive power and the providers of social services under the Social Services Act (SSA) are obliged to provide timely assistance and information to the SACP and the Social Assistance Directorates in the performance of their duties".

As part of the cooperation on child sexual abuse, Art. 43a of the DPA provides for the establishment and maintenance by the Ministry of the Interior of a National Information System for the Prevention and Protection from Paedophilia and a National Register of cases of paedophilia committed on the territory of the country or in respect of Bulgarian citizens abroad who have sought assistance and support and of persons convicted of offences under Section VIII "Debauchery" of Chapter Two "Offences against the person" of the Criminal Code, committed against minors, as well as the issuance of reports and certificates on the circumstances recorded.

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CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

- cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and
- cases of withdrawal of parental rights once the court has convicted the said parent?^[28] Please provide details.

[28] *Ibid.*, Recommendation 32

- Yes
 No

Please provide information in support of your answer, if possible by referring to specific legal provisions and their exact wording (8 Yes)

According to the Family Code:

Limitation of parental rights

Art. 131. (1) Where the conduct of a parent constitutes a danger to the person, health, upbringing or property of the child, the district court shall take appropriate measures in the interest of the child by limiting parental rights - withdrawing or placing conditions on the exercise of some of them, and may entrust their exercise to another person. If necessary, the child's residence may be changed or the child may be placed outside the family.

(2) The measures referred to in par. (1) shall also be taken when, due to prolonged physical or mental illness or other objective reasons, the parent is unable to exercise his parental rights.

Deprivation of parental rights

Art. 132.(1) A parent may be deprived of parental rights:

1. in particularly serious cases under Art. 131;
2. where, without good reason, he or she persistently fails to care for the child and fails to provide him or her with maintenance.

(2) In case of deprivation of parental rights of one parent, where there is no other parent or the exercise of parental rights by him/her is not in the best interests of the child, the court shall take protective measures and place the child outside the family.

Proceedings for limitation and deprivation of parental rights

Art. 133(1) Proceedings for limitation and deprivation of parental rights shall be instituted at the request of the other parent, the public prosecutor or the Social Assistance Directorate before the district court of the child's present address.

(2) The public prosecutor, a representative of the Social Assistance Directorate and the parent whose restriction or deprivation of rights is sought shall be heard in the proceedings, unless the parent fails to appear without valid reasons.

(3) The court shall determine appropriate interim measures in the best interests of the child, taking into account the opinion of the Social Assistance Directorate. The order shall not be subject to appeal but may be modified by the same court.

Here you can upload any file(s) in support of your answer

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 9. Does your national legal framework provide for:

a. [automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending](#)?^[29] Please provide details.

[29] Question included for capacity-building purposes, i.e. to map whether there are Parties that have a particular legal framework in such cases.

- Yes
 No

If appropriate, please provide more information (9.a No)

Civil law does not provide for the automatic deprivation of parental rights of parents against whom criminal proceedings for sexual abuse of their own child are pending or who have been convicted of sexual abuse of their own child. For such a case, there is the general possibility of initiating proceedings under Article 132 of the Civil Code at the request of the other parent, the public prosecutor or the Social Welfare Directorate, and the deprivation of parental rights takes place by court decision. Child protection is ensured through the procedures described in the answer to QUESTION 7. In order to guarantee the interests of the child, in cases where the accused person is remanded in custody, the provision of Article 63 para. 12 of the Code of Criminal Procedure, which provides that the children of a detainee, if they have no relatives to care for them, shall be placed immediately through the relevant municipality or town hall in a nursery school, kindergarten or boarding school.

Here you can upload any file(s) in support of your answer

b. [automatic withdrawal of parental rights of parents convicted of sexual abuse of own child](#)?^[30] Please provide details.

[30] *Ibid*

- Yes
 No

If appropriate, please provide more information (9.b No)

Please see 9 a

Here you can upload any file(s) in support of your answer

GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

How does your national legal framework ensure that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences?^[31]

[31] Based on *Yuppala v. Finland* (no. 18620/03), 2 December 2008 and *M.P. v. Finland* (no. 36487/12), 15 December 2016. Partly based on Article 12 of the Lanzarote Convention.

In the Republic of Bulgaria, a Whistleblower Protection Act has been adopted. According to Art. 1(5) of this Law, it applies to a report of a crime of a general nature of which a person has become aware in connection with the performance of his or her work or in the performance of his or her official duties. Pursuant to Article 38 of the same Law, "where a person is the subject of criminal, civil or administrative proceedings in connection with a report or public disclosure of information made by him, he or she shall have the right to request the termination of such proceedings if he/she had reasonable grounds for believing that the making of the report or the public disclosure of the information was necessary for the detection of an offence." According to Article 147 of the Penal Code, whoever discloses a disgraceful circumstance about another or attributes a crime to him shall be punished for defamation with a fine of three thousand to seven thousand leva and public censure. The offender shall not be punished if the truth of the disclosed circumstances or of the attributed offence is proved.

Here you can upload any file(s) in support of your answer

ASSISTANCE TO THIRD PARTIES Question 11.

What kind of legislative or other measures does your national legal framework have in place to ensure that persons close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care?^[32]

[32] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 30

According to the Law on Assistance and Financial Compensation to Victims of Crime (LAFC), under the terms and conditions of this law, assistance may be provided to victims and their family members who have suffered pecuniary and non-pecuniary damage from crimes of a general nature, such as sexual offences, which are regulated in Article 149 - Article 159 of the Penal Code. Victims who have suffered material damage as a result of the following crimes may receive financial compensation:

- terrorism; intentional homicide; attempted homicide; intentional grievous bodily harm; fornication; rape; human trafficking;
- offences committed on the orders of or in pursuance of a decision of an organised criminal group;
- other serious intentional offences from which death or serious bodily injury has been caused as a constitutive consequence.

Where the victim has died as a result of the offence, the right to assistance and financial compensation passes to his heirs or to the person with whom he was in de facto cohabitation.

The forms of assistance to victims of crime are medical assistance for emergency conditions under the

Health Act; psychological counselling and assistance; free legal assistance under the Legal Aid Act; and practical assistance. Family members of a victim who have suffered pecuniary and non-pecuniary damage as a result of a crime of a general nature may benefit from the forms of assistance 'psychological counselling and assistance' and 'practical assistance'.

The psychological counselling and assistance is free of charge and is provided by specialists - psychologists from the victim support organisations, according to the needs of the victim and his/her psychological condition.

Victim support organisations and all other legal entities which, in the course of their activities, come into contact with victims of crime are obliged to provide them with practical assistance.

Practical assistance shall consist of the prominent display of relevant information boards and other materials on the rights of victims of crime under this Act, the creation of a calm and supportive environment when making contact with them, the provision of information on the risk of secondary and repeat victimisation, intimidation or retaliation, and the provision of advice on their prevention. Victim support organisations shall provide shelter or other appropriate temporary accommodation to victims of crime who are at imminent risk of secondary and repeat victimisation, intimidation and retaliation.

Here you can upload any file(s) in support of your answer

ASSISTANCE TO THIRD PARTIES Question 12.

When determining the support required to the victim and the persons close to him or her, how does your national legal framework ensure that the child's disclosure does not worsen his or her situation and that of the other non-offending members of the family?^[33]

[33] *Ibid.*, Recommendation 31

Under the Code and the Victims of Crime Assistance and Financial Compensation Act, victims of crime are entitled to an individual assessment. The purpose of the assessment is to determine the physical and mental state of the victim as a result of the crime and to establish the existence of specific protection needs within the meaning of the Code of Criminal Procedure. Such specific protection needs are present when it is necessary to apply additional means of protection against secondary and repeated victimisation, intimidation and retaliation, emotional or mental suffering, including to preserve the dignity of the victim during interrogation. Specific protection needs shall be determined in accordance with the provisions of this Code and the Victims of Crime Assistance and Financial Compensation Act.

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MONITORING OF OFFENDERS Question 13. Does your national legal framework provide for:

a. a mechanism to monitor or supervise persons convicted of child sexual abuse and, specifically, persons convicted of child sexual abuse while holding a recognised position of trust, authority or influence?^[34]

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

A systematic correctional and re-educational work shall be carried out with those convicted of sexual offences, including those convicted of sexual violence against children, starting from their placement in places of deprivation of liberty and continuing throughout the execution of the sentence.

Here you can upload any file(s) in support of your answer

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b. **sharing with other countries data concerning persons convicted of child sexual abuse?**^[35] Please provide details.

[35] Based on Article 38 of the Lanzarote Convention.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

It is possible, within the competence.
According to Art. 43a, par. 3 of the Child Protection Act, the Ministry of the Interior shall ensure the registration, storage and up-to-date maintenance of the data National System and Register, and shall also ensure the interaction with foreign information systems for the exchange of information concerning cases of paedophilia and concerning persons convicted of offences under Section VIII "Debauchery" of the Penal Code committed against minors.

Here you can upload any file(s) in support of your answer

MEASURES IN RESPECT OF PROFESSIONALS AND LEGAL PERSONS Question 14. Does your national legal framework:

a. **allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child?**^[36] Please provide details.

[36] Based on Article 27§3(b) of the Lanzarote Convention.

- Yes

No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

The provision of Article 36e(6) of the Child Protection Act stipulates that when violence or exploitation of a child is committed by a person entrusted with the care, protection, treatment or education of the child on the basis of a court decision, employment or other contract, the prosecution authorities shall, when submitting the file to the court, immediately inform the Social Assistance Directorate at the child's current address and the relevant employer of the immediate separation of that person from the child or children.

Pursuant to Article 69 of the Criminal Procedure Code, where the accused is charged with an intentional offence of a general nature (as sexual offences are regulated in Article 149 - Article 159 of the Penal Code) committed in connection with his/her work and there are sufficient grounds to believe that his/her official position will create obstacles to the objective, comprehensive and complete clarification of the circumstances of the case, the court may remove the accused from office.

In pre-trial proceedings, the relevant court of first instance shall rule on the request of the public prosecutor alone in open session with the participation of the public prosecutor, the accused and his defence counsel. The order of the court shall be subject to appeal by private appeal and private protest before the Court of Appeal within three days. The Court of Appeal shall give its judgment in open court, sitting with three judges, in the presence of the public prosecutor, the accused and his lawyer. The absence of the accused without valid reasons shall not preclude the hearing of the case.

Where there is no longer a need for the measure, in pre-trial proceedings the suspension shall be revoked by the public prosecutor or, at the request of the accused or his counsel, by the court.

Here you can upload any file(s) in support of your answer

b. ensure that professionals working in the public, private or voluntary sectors failing to report offences of child sexual abuse occurring in “out-of-home care”^[37] settings are held liable?^[38] Please provide details.

[37] In accordance with the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse adopted at its 25th meeting (15-18 October 2019), “out-of-home care” represents all settings in which children can be placed out of their home for care (see point b of the Declaration).

[38] Based on the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse, point 6.

Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

Chapter Six of the Child Protection Act provides for child rights monitoring, within the framework of which inspections are carried out by officials of the State Agency for Child Protection. Article 63, paragraph 5 of the Child Protection Act provides for the possibility for the Chairperson of the State Agency for Child Protection to propose to the heads of the inspected entity to impose disciplinary sanctions on persons who have violated their duties, thereby causing a violation of the rights of a child.

Penal Procedure Code
Article 204

Pre-trial authorities shall widely use the assistance of the public in order to discover the criminal offence and to elucidate the circumstances of the case.

Obligation of the citizens and officials to notify

Article 205

(1) Where they come to know about a perpetrated publicly actionable criminal offence the citizens shall be publicly obligated to notify forthwith a pre-trial authority or another state body.

(2) Where they come to know about a perpetrated publicly actionable criminal offence the officials must notify forthwith the body of pre-trial proceedings and take the necessary measures for the preservation of the general setup and data about the crime.

(3) In cases under Paragraphs 1 and 2 pre-trial authorities shall immediately exercise their powers to institute criminal proceedings.

Here you can upload any file(s) in support of your answer

c. **ensure that legal persons failing to protect children in their care from sexual abuse are held liable?**^[39]

Please provide details.

[39] *Ibid.*, see point 7.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.c Yes)

The Bulgarian legislation includes the Social Services Act and the Regulation on the Quality of Social Services. Chapter 7 of the Social Services Act regulates the control over the provision of social services and is applicable also to providers of social services to children. Chapter Four of the Ordinance regulates in detail the way of control. The aim is to monitor compliance with the regulatory requirements for the provision of services and the standards for their quality and to take timely measures to improve it.

Control is provided for at several levels. Firstly, internal control and monitoring shall be carried out by the head of the service concerned or by staff designated by his/her order, with the participation of external experts. Secondly, each municipality also controls and monitors the social services provided on its territory. The Agency for the Quality of Social Services also monitors the provision of social services by carrying out inspections, including checks on compliance with the rights of users of social services.

Its inspections may be periodic or thematic, ad hoc and follow-up. Procedures are designed to be able to identify negligent performance or non-performance of social services, including lack of protection from child sexual abuse. It is stipulated that in the event of the detection of violations within the competence of other authorities, the Executive Director of the Agency for the Quality of Social Services shall immediately notify them, and in the event of detected offences that contain evidence of a crime, shall immediately notify the prosecution authorities. The provision of Article 158 of the Social Services Act allows for the revocation of the licence of the social service provider in case of certain violations, and according to Article 148(4), when the violation has resulted in danger to the life and health of persons using social services or constitutes a criminal offence, within three years from the date of entry into force of the order for revocation of the licence, the person shall not be entitled to a new licensing.

Here you can upload any file(s) in support of your answer

SPECIAL REPRESENTATIVES Question 15. How does your national legal framework ensure that special representatives and guardians ad litem who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim:

- a. receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?^[40]

[40] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 35

According to Art. 101, par. 1 of the CCP, when the interests of the minor victim and his parent, guardian or custodian are contradictory or the parent, guardian and custodian do not exercise the rights and do not fulfil the obligations under Articles 125, 129, 164 and 168 of the CC, the relevant authority shall appoint a special representative - a lawyer. According to par. 3 of Article 101 of the Criminal Code, the special representative shall participate in the criminal proceedings as an attorney. The cited provision provides guarantees that the person who will represent the child victim in criminal proceedings, namely a lawyer, will be different from his parent, guardian or custodian when their interests are conflicting or they do not fulfil the obligations in the aforementioned provisions of the Family Code.

With a view to providing highly qualified legal assistance, the Lawyers Act provides rules for the maintenance and improvement of lawyers' qualifications. According to Article 27 of the Law on Advocates Act, lawyers and lawyers of the European Union are obliged to maintain and improve their qualifications. Article 28, para. 28(1) of the Advocates' Act provides that the Supreme Bar Council shall organise a training centre for advocates to maintain and improve the qualifications of advocates and advocates of the European Union.

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- b. avoid combining the functions of a lawyer and guardian ad litem in one person?^[41]

[41] Ibid., Recommendation 36

Please see the answer of 15 a.

Here you can upload any file(s) in support of your answer

- c. are provided free of charge for the child victim?^[42]

[42] Ibid., Recommendation 37

According to Art. 22, par. 1, item 5 and item 7 of the Legal Aid Act (LAA), legal aid in the form of consultation and/or preparation of documents with a view to reaching an agreement prior to the commencement of court proceedings or for the filing of a lawsuit, for the commencement or conduct of proceedings for the issuance

of an individual administrative act and/or its administrative challenge, including consultation and/or preparation of documents under Chapter Five "a", Section II and representation in out-of-court proceedings is free of charge and is provided to a child at risk under the Child Protection Act.

Here you can upload any file(s) in support of your answer

SPECIAL REPRESENTATIVES Question 16. [for 22 Parties + Malta]

a. **Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?**^[43] Please provide details.

[43] *Ibid.*, Recommendation 34

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.a Yes)

The figure of the special representative is regulated in Article 101 of the Criminal Procedure Code. Such a person shall be appointed by the judicial authority when the interests of the minor victim and his parent, guardian or custodian are in conflict. The special representative must be a lawyer and the assistance shall be free of charge for victims of domestic or sexual violence or human trafficking who do not have the means and wish to use legal counsel, as well as for persons seeking international protection under the Asylum and Refugee Act for whom the provision of legal assistance is not otherwise legally required.

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b. **Is this person allowed to be present throughout the criminal proceedings?**^[44] Please provide details.

[44] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.b Yes)

According to Art. 101, par. 3 and 4 of the Criminal Procedure Code, the special representative participates in the criminal proceedings as a counsel. The provisions of Art. 91, para. 3 and Article 92 shall apply accordingly to the special representative – he/she may not have represented or advised the opposing party and, if so, shall be obliged to withdraw himself. If he/she fails to do so, the relevant authority shall exclude him/her from participation in the criminal proceedings either of its own motion or at the request of the person concerned.

Here you can upload any file(s) in support of your answer

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 17. In investigative and judicial proceedings how does your national legal framework ensure that:

- a. **protection measures are available to all children irrespective of their age**?^[45] Please provide details.

[45] *Ibid.*, Recommendation 38

Victims of crime are entitled to an individual assessment. The individual assessment shall take into account: the type and nature of the offence and the circumstances surrounding it; the type and extent of the harm suffered; the age, intellectual development, emotional and social maturity and education of the victim, as well as other personal characteristics of the victim. The purpose of the assessment is to determine the victim's physical and mental state as a result of the offence and to establish the existence of specific protection needs.

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- b. **specificities of sexual abuse committed in respect of a child by someone in a recognised position of trust, authority or influence are taken into account in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child**?^[46] Please provide details.

[46] *Ibid.*, Recommendation 39

Please see the answer to 17 a.

Here you can upload any file(s) in support of your answer

- c. **a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children's psychological well-being**?^[47] Please provide details.

[47] Based on *N.Ç. v. Türkiye* (no. 40591/11), 9 February 2021

According to Art. 139a, par. 1 of the CCP, the presence of an educator or psychologist is mandatory when the witness with special protection needs is a minor. Where necessary, the interrogation shall also be conducted in the presence of the parent, guardian or custodian.
Article 140, para. 140(1) of the same Code provides that a minor witness shall be questioned in the presence of a pedagogue or psychologist and, where necessary, in the presence of the parent or guardian.

The minor witness shall be questioned in the presence of the persons referred to in par. 1 of Article 140 of the Code of Criminal Procedure, if the relevant authority deems it necessary.

The guarantee provided for in Article 5(5) of the Act on the Protection of Persons at Risk in Connection with Criminal Proceedings and Article 8(5) of the Act on the Protection of Persons at Risk in Connection with Criminal Proceedings shall also be provided for. 1(2) of the Act on Assistance and Financial Compensation for Victims of Crime psychological assistance.

Here you can upload any file(s) in support of your answer

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 18.

Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?^[48] Please provide details.

[48] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 40

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (18 Yes)

In order to implement Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA, the Ministry of Justice has prepared a draft law amending and supplementing the Criminal Procedure Code, which also proposes amendments to the Law on Assistance and Financial Compensation to Victims of Crime.

In line with the requirements of the Directive, the law expands the list of procedural rights of victims:

adds the right to be accompanied by a person of their choice. The assistance and moral support that this person can provide will contribute to better interaction between the victim and the pre-trial authorities during the conduct of the procedural and investigative actions;

it is envisaged that the interrogation of child witnesses with special protection needs will be conducted in the presence of an educator or psychologist. Where necessary, the interrogation shall also take place in the presence of the parent, guardian or custodian. In cases of domestic violence or a sexual offence, at the request of the victim, the interview may be conducted by a person of the same sex;

arranges for an individual assessment of the victim to be carried out without undue delay after the competent authorities have first made contact with him. It should determine the victim's physical and mental state as a result of the crime suffered and establish the existence of specific protection needs. Amendments to the Act on Assistance and Financial Compensation to Victims of Crime are proposed in this respect;

ensures that family members of the victim who have suffered pecuniary and non-pecuniary damage as a result of a crime of a general nature may also receive assistance under the the Act on Assistance and Financial Compensation to Victims of Crime. For the sake of clarity, a separate definition of "family members" of the victim is introduced.

The draft law was adopted by the National Assembly at the second reading on 26 May 2023, promulgated in

the State Gazette No. 48 of 2 June 2023 and entered into force on 6 June 2023. Amendments were also made to the Penal Code (amended, No. 67 of 4 August 2023); the Law on Protection from Domestic Violence (No. 69 of 11 August 2023); the Law on Legal Aid (No. 66 of 1 August 2023, in force from 1 August 2023); and the Law on Assistance and Financial Compensation to Victims of Crime (No. 48 of 2 June 2023, in force from 1 September 2023).

Here you can upload any file(s) in support of your answer

INVESTIGATION Question 19. In the investigation phase:

In 2023 the Steering Committee for the Rights of the Child (CDENF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

a. are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), and are such settings provided throughout your territory?^[49] Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.a Yes)

The examination of a witness with special protection needs shall be conducted while taking measures to avoid contact with the accused, including by videoconference or telephone conference, in accordance with the provisions of this Code. The presence of an educator or psychologist shall be mandatory when the witness with special protection needs is a minor. Where necessary, the interview shall also be conducted in the presence of the parent, guardian or custodian. At the request of a witness who is a victim of a crime committed in the context of domestic violence or of an offence under Chapter Two, Section VIII of the Special Part of the Penal Code, the examination shall be conducted by a person of the same sex if this will not impede the criminal proceedings.

Pursuant to Art. 140, paragraph 5 of the Criminal Procedure Code of the Republic of Bulgaria, "The interrogation of a witness who is a minor in the country may be carried out if measures are taken to avoid contact with the accused, including in specially equipped premises or by videoconference."

In order to create an appropriate environment for the interrogation of child victims of crime, so-called "blue rooms" are used in the country. "A 'blue room' essentially consists of two rooms separated by glass, allowing only one side to be seen, or connected by videoconference. In either case, one can observe what is going on in the room where the child and the interviewer are, while the other room has a headset, microphone, computer and seating. Representatives of the institutions that have requested to interview or hear a child are standing in the room.

The room behind the glass/chamber has a predisposing environment for the child, there are various resources to help them feel at ease and able to express themselves. The glass or video link makes it possible to guarantee the accused's right to question the witness in his presence and at the same time to

protect the child from eye-to-eye contact, which is very often used to frighten and confuse and thus discredit the child's testimony, and further traumatise the child.

The blue rooms are made so that direct contact can be avoided before the start of the interrogation and afterwards. Child-friendly justice tries to adapt to the child rather than expecting the opposite, i.e. introducing appropriate places for interrogation that do not stress children, create conditions for children to feel in familiar surroundings.

Here you can upload any file(s) in support of your answer

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b. [are all staff responsible for interviewing child victims required to undergo suitable qualifying training?](#)^[50]

Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.b Yes)

The Criminal Procedure Code provides for pre-trial proceedings against minors to be conducted by designated investigative authorities and prosecutors with special training in the field of children's rights or who have effective access to specialised training. See Articles 385, 390, 394 of the CPC. Investigative bodies undergo training courses on tactics of conducting interrogations involving minors. Investigators conducting pre-trial investigations involving child victims of crime are not required to undergo appropriate qualification training. Such a requirement is in place when conducting investigations committed by minors - Article 385 of the Criminal Procedure Code - "In cases of crimes committed by minors, pre-trial proceedings shall be conducted by designated investigative bodies and prosecutors with special training in the field of children's rights or who have effective access to specialized training". Although the Criminal Procedure Code does not require that the investigating authority itself has undergone special training, there are provisions in the CPC that introduce a requirement for the participation of an educator or psychologist when questioning a juvenile witness.

Here you can upload any file(s) in support of your answer

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c. [does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child's age and attention span?](#)^[51] Please provide details.

[51] *Ibid.*, Recommendation 43

- Yes
 No

If appropriate, please provide more information (19.c No)

The Bulgarian legislation does not contain an explicit legal text that the interrogation of child victims should be carried out as soon as possible after the crime, but this requirement can be deduced in view of the specificity of this type of crime. The interference with the child's bodily and personal integrity implies the urgency of the interrogation in order to ensure full and accurate testimony from the victim and, at the same time, to preserve as much as possible the mental state of the child victim. In this regard, in the event of urgency to preserve evidence, Article 212(2) of the Code of Criminal Procedure provides that pre-trial proceedings shall be deemed to have been initiated upon the drawing up of the report on the first investigative act when a search, including examination, search, seizure and interrogation of witnesses is carried out, if their immediate execution is the only possibility of collecting and preserving evidence, and when a search is carried out under the conditions and in accordance with the procedure laid down in Article 164 of the Code of Criminal Procedure.

Here you can upload any file(s) in support of your answer

d. **[for Serbia]** how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?^[52]

[52] *Ibid.*, Recommendation 54

Here you can upload any file(s) in support of your answer

e. where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?^[53] Please provide details.

[53] *Ibid.*, Recommendation 44

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.e Yes)

Whether the questioning is of a juvenile or a minor, it shall be conducted by the officer assigned to the particular investigation. It is possible for the specific investigative action to be conducted by another officer or to be completely reassigned under the pre-trial proceedings to another officer, but only under circumstances that require it (e.g., absence of the officer conducting the investigation due to temporary incapacity, quit, moved to another office, etc.). As regards the conditions, they are the same as they were in the first interrogation - already described in sub-paragraph 'a'.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?](#)^[54] Please provide details.

[54] *Ibid.*, Recommendation 45

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.f Yes)

Pursuant to Art. 281, para. 1(6) of the CCP, the testimony given in the same case before a judge in pre-trial proceedings or before another panel of the court shall be read out when the witness is a minor or has special defence needs and the accused and his/her defence counsel were present during his/her examination.

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JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

In 2023 the Steering Committee for the Rights of the Child (CDEF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

a. [is systematic use of video equipment made in order to record interviews of child victims or enable him or her to testify remotely during the proceedings?](#)^[55] Please provide details.

[55] *Ibid.*, Recommendation 46

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.a Yes)

Here you can upload any file(s) in support of your answer

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b. [does your national legal framework make an exception in the requirement to be physically present at court hearings for child victims of sexual abuse, including when they are giving evidence?](#)^[56] Please provide details.

[56] *Ibid.*, Recommendation 59

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.b Yes)

There is an opportunity for the child to be questioned without being physically present at the hearing. Pursuant to Article 140(5) of the Code of Criminal Procedure, the examination of a witness who is a minor will be carried out if measures are taken to avoid contact with the accused, including in specially equipped premises or by videoconference.

Here you can upload any file(s) in support of your answer

c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)^[57] Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.c Yes)

Please see the above question.

Here you can upload any file(s) in support of your answer

d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)^[58] Please provide details.

[58] *Ibid.*, Recommendation 47

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.d Yes)

A sound recording and a video recording may also be made in the course of the investigation, the provisions of Articles 237-239 of the Criminal Procedure Code shall apply.

Here you can upload any file(s) in support of your answer

e. [what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?](#)^[59]

[59] *Ibid.*, Recommendation 48

Pursuant to Article 280(6) of the CCP, a witness who is a minor or who has special protection needs and who has been questioned in criminal proceedings shall be questioned again only in the cases exhaustively specified in that provision, and the questioning shall be conducted while taking measures to avoid contact with the defendant, including in specially equipped premises.

The questioning of a witness with special protection needs, pursuant to Article 139(10) of the Code of Criminal Procedure, shall be carried out in accordance with the provisions of that Code, taking measures to avoid contact with the accused, including by videoconference or telephone conference.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)^[60] Please provide details.

[60] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.f Yes)

Questioning of a witness with special protection needs shall be conducted when measures are taken to avoid contact with the accused, including by videoconference or telephone conference, in accordance with the provisions of the Code.

Here you can upload any file(s) in support of your answer

g. [how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?](#)^[61]

[61] *Ibid*

Questioning of a witness with special protection needs shall be conducted when measures are taken to avoid contact with the accused, including by videoconference or telephone conference, in accordance with the provisions of the Code.

Here you can upload any file(s) in support of your answer

h. [what measures do you take to prevent violation of the child victims' right to privacy by the media through disclosure or publication of personal information or data?](#)^[62]

[62] *Ibid.*, Recommendation 49

Investigation materials may not be disclosed without the permission of the prosecutor in the pre-trial proceedings. The possibility of holding the hearings in camera is provided for in the judicial procedure.

Here you can upload any file(s) in support of your answer

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i. [does your national legal framework provide for free legal aid to child victims of sexual abuse by someone in a recognised position of trust, authority or influence under the same or more lenient conditions as that available to adults?](#)^[63] Please provide details.

[63] *Ibid.*, Recommendation 50

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.i Yes)

Yes, eligibility for free legal aid is the same as for adults.

Here you can upload any file(s) in support of your answer

j. [does your national legal framework grant to child victims of sexual abuse by someone in a recognised position of trust, authority or influence the right to be represented in their own name by a lawyer trained in the relevant matters?](#)^[64] Please provide details.

[64] *Ibid.*, Recommendation 51

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.j Yes)

As victims, private prosecutors or civil plaintiffs, they may be defended by an attorney. Lawyers of the Bar Associations undergo regular training on all matters concerning the specifics of criminal procedure, including minors and juveniles.

Here you can upload any file(s) in support of your answer

k. [what assistance, if any, do you provide to child victims of sexual abuse by someone in a recognised position of trust, authority or influence, once a criminal justice decision has been taken?](#)^[65]

[65] *Ibid.*, Recommendation 52

Provision of free psychological assistance in accordance with the terms and conditions of the Act on the Protection of Persons at Risk in Connection with Criminal Proceedings and the Act on Assistance and Financial Compensation to Victims of Crime. Financial compensation pursuant to Article 12 of the Act on Assistance and Financial Compensation to Victims of Crime is provided. Pursuant to Article 25, para. 4 of the Child Protection Act, a child who is a victim of violence in the family and there is a serious risk of harm to his or her physical, mental, moral, intellectual and social development may be placed outside the family. Placement could also take place before the final ruling of the court.

Here you can upload any file(s) in support of your answer

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